

# MINNESOTA SENTENCING GUIDELINES COMMISSION

## Sentencing Practices

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### DWI Offenses Sentenced in 2011

Published November 2012

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## Summary of 2011 Data

There were 660 offenders sentenced for felony DWI in 2011 (Figure 1). This is one percent lower than in 2010. Thirty percent of the DWI offenders sentenced in 2011 were sentenced for a subsequent felony DWI offense compared to 20 percent in 2010.

Felony DWI offenders were more likely to be white or American Indian males than were offenders sentenced for other offenses (Figure 2). On average, they were five years older than other offenders (Table 1), and more likely to be sentenced in greater Minnesota (Figure 3).

Ninety-six percent of offenders sentenced for felony DWI received incarceration in either a state prison (31%) or local correctional facility (i.e., jail) as part of a probationary sentence (65%) (Table 2). The state prison rate increased from 25 percent in 2010 to 31 percent in 2011.

The average pronounced prison sentence was 50 months (Table 3), which is three months shorter than the average sentence pronounced in 2010. The number of DWI offenders who were recommended prison was 46 percent (Table 5).

The mitigated dispositional departure rate for presumptive commitments was 35 percent, which is an increase from the rate in 2010 (32%) (Figure 5). The mitigated durational departure rate for offenders receiving executed prison sentences was 23 percent, an increase from the 2010 rate of 17 percent, which was the lowest rate ever observed (Figure 6). The average pronounced jail period for offenders receiving local jail as a condition of probation was 202 days (Table 3).

Information on DWI revocations to prison is now located in MSGC's *Technical Revocations to Prison* report, available online at: <http://www.msgc.state.mn.us>.

## Sentencing Policy

Felony Driving While Impaired (DWI) went into effect August 1, 2002. Minn. Stat. § [169A.276](#), subdivision 1(a) created a minimum 36-month felony sentence of imprisonment for this offense, while subdivision 1(b) allows for a stay of execution of that sentence but specifically forbids a stay of imposition or stay of adjudication. This means that the court is required to pronounce a period of incarceration even if the court intends to pronounce a probationary sentence.

The Guidelines recommend sentences for the typical case based on the severity of the offense of conviction and the offender's criminal record. The court may depart from the recommended sentence if the circumstances of a case are substantial and compelling. The court must provide reasons for the departure. Both the prosecution and the defense may appeal the pronounced sentence.

An offender who is sentenced to prison will serve a term of imprisonment equal to at least two-thirds of the pronounced executed sentence. Minn. Stat. § [244.101](#). The actual time an offender is incarcerated may be increased (up to the total sentence) if disciplinary rules are violated. An offender receiving a prison sentence for a felony DWI is also subject to a 5-year term of conditional release. (Minn. Stat. § [169A.276](#), subd. 1(d); 2012 Minn. Sentencing Guidelines 2.E.)

The Guidelines presume a minimum 36-month sentence for this offense (2012 Minn. Sentencing Guidelines § 2.E.). For a person convicted of a felony DWI who has a Criminal History Score of 2 or less, the Guidelines presume a stayed sentence; however, if a person has a prior felony DWI conviction, or a prior conviction for criminal vehicular homicide or operation, the sentence is presumed to be an executed sentence of imprisonment, regardless of criminal history score (2012 Minn. Sentencing Guidelines § 2.C.3.d).

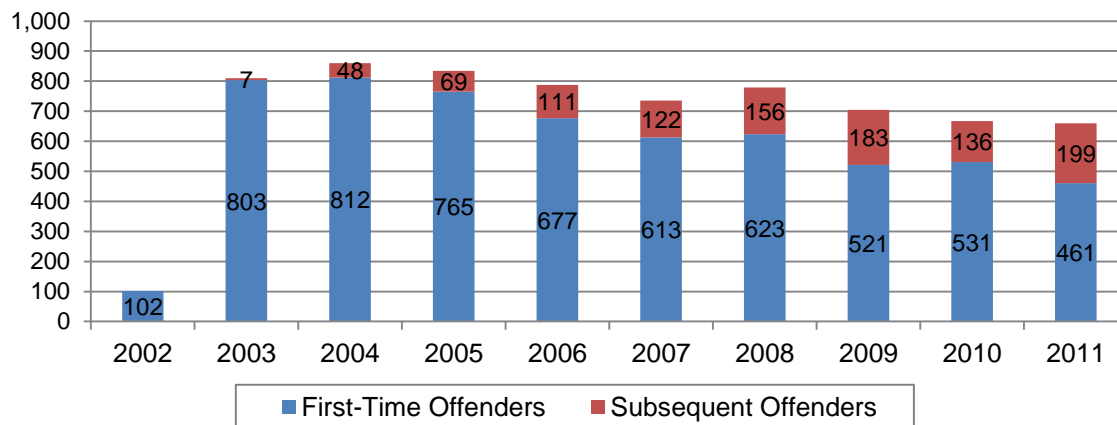
Offenders receiving stayed sentences can receive up to one year of local jail time as a condition of their probation and are subject to the mandatory penalty provisions specified in Minn. Stat. § [169A.275](#). This statute provides that fourth-time DWI offenders must be incarcerated for 180 days and fifth-time (or more) offenders for one year unless they are placed in an intensive supervision program. The statute also allows that a portion of this mandatory jail time may be served on electronic monitoring.

The data examined in this summary are from the MSGC monitoring system for cases sentenced in 2011. One of the primary functions of the MSGC is to monitor sentencing practices. The monitoring system is designed to maintain data on all offenders convicted of a felony and sentenced under the Guidelines. A case is defined when a sentencing worksheet is received from a probation officer and matched with sentencing data from the District Court. Cases generally represent offenders; an offender sentenced in the same county on more than one offense within a 30-day period is counted as one case. Reported here are cases where felony DWI was the most serious offense sentenced.

## Case Volume & Distribution<sup>1</sup>

There were 660 offenders sentenced for felony DWI in 2011. This is a slight decrease from the 667 offenders sentenced in 2010, and is a 23 percent decrease from the 861 offenders sentenced in 2004. Thirty percent of the offenders sentenced for a felony DWI in 2011 were sentenced for a subsequent offense (Figure 1). This is the highest subsequent offense rate recorded to date.

**Figure 1. Number of Offenders Sentenced:  
2002 - 2011**



**Total DWI Offenders Sentenced by Year**

2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
102	810	860	834	788	735	779	704	667	660

## Demographic Characteristics

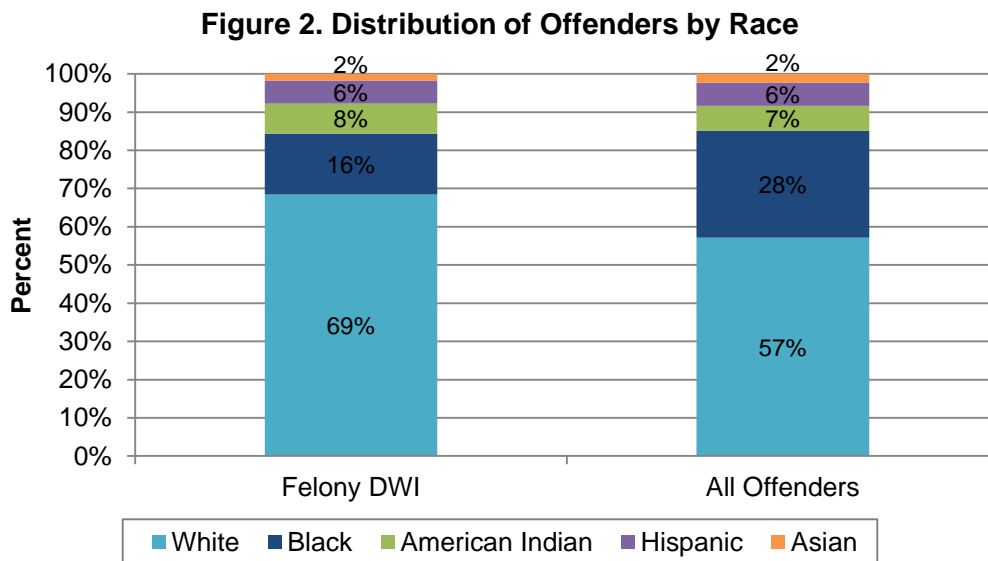
DWI offenders are slightly more likely to be male (88%) than in the overall felony population (83%). The average age at time of offense was 36 for felony DWI offenders, compared to 31 for offenders overall (Table 1).

**Table 1. Gender and Average Age**

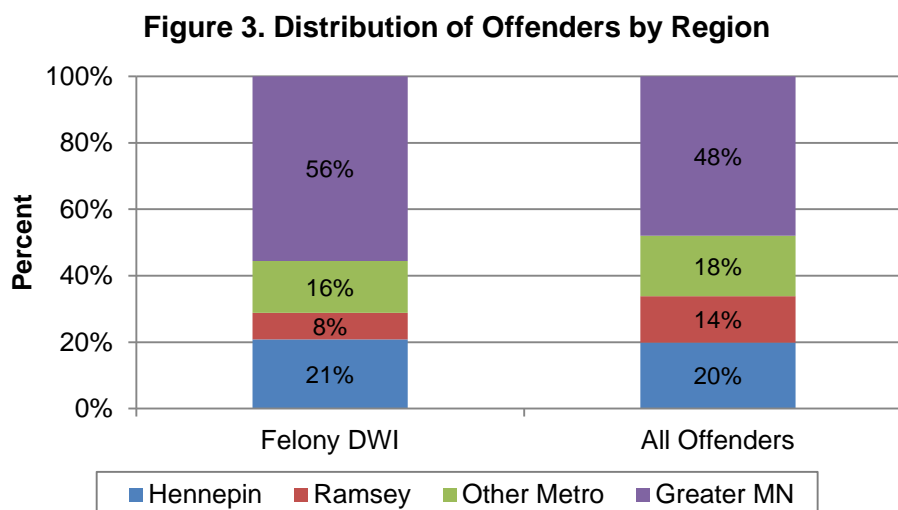
	Male	Female	Average Age
Felony DWI	581 (88%)	79 (12%)	37
All Offenders	1,2150 (83%)	2,421 (17%)	31

<sup>1</sup> It should be noted that the Minnesota Sentencing Guidelines Commission (MSGC) monitoring data are offender-based, meaning cases represent offenders rather than individual charges. Offenders sentenced within the same county in a one-month period are generally counted only once, based on their most serious offense.

A greater proportion of felony DWI offenders are likely to be white (69%) or American Indian (8%) than in the overall felony offender population (57% and 7%, respectively) (Figure 2). The proportion of felony DWI offenders who are black (16%) is much lower than the proportion of black offenders in the overall felony population (28%).



Hennepin County sentenced 21 percent of the felony DWI cases in the state, compared to 20 percent of all felony cases sentenced. Ramsey County sentenced eight percent of the felony DWI cases, compared to 14 percent of all felony cases. The other metro counties had a similar percentage of felony DWI and total felony offenses (16% and 18%, respectively). Conversely, Greater Minnesota sentenced a larger proportion of felony DWIs (56%) than its share of all felonies sentenced in 2011 (48%) (Figure 3).



Fifty percent of all felony DWI cases were sentenced in the following counties (in order of

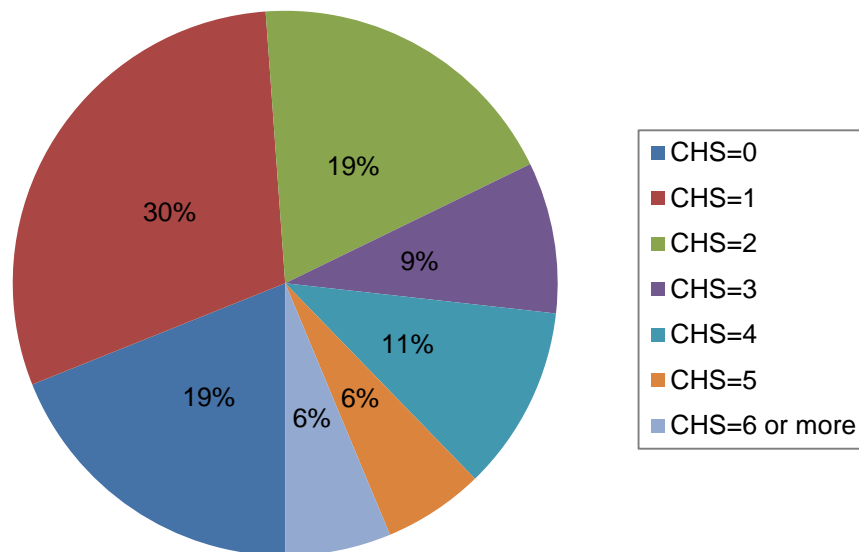
greatest number): Hennepin, Ramsey, Dakota, Anoka, Olmsted, St. Louis, and Clay. All other counties had less than 23 DWI sentences in 2011 (Table 8).

### *Criminal History*

By definition, a felony DWI is a fourth offense within ten years ([Minn. Stat. § 169A.24](#)). Therefore, all felony DWI offenders have, at a minimum, three prior alcohol-related driving offenses. Under the Guidelines, the same offenses used to reach the felony DWI level are not necessarily used to calculate an offender's criminal history score (2012 Minn. Sentencing Guidelines § 2.B.6). Thus, a first-time felony DWI offender may be sentenced at a criminal history score of zero even though the individual has prior DWI offenses.

Most DWI offenders were sentenced at a Criminal History Score of 0 or 1. The vast majority (68%) were sentenced at a score of 2 or less, so most had presumptive probationary sentences. However, 82 of these offenders at Criminal History Score of 2 or less (18%) had presumptive prison sentences because of a prior felony DWI. When all 660 DWI offenders, regardless of criminal history, are considered, 199 (30%) were sentenced for a subsequent felony DWI. More than half of all DWI offenders (69%) were under some kind of supervision (e.g., probation, release pending sentence, supervised release from prison) at the time they committed the current offense.

**Figure 4. Distribution of Offenders by Criminal History Score (CHS)**





## Sentencing Practices

### *Incarceration Rates*

At the time of sentencing, the court can impose one or more of several different types of sentences, the most restrictive being a sentence of imprisonment in a state facility for a period exceeding a year. The court may also impose a sentence of confinement in a local jail for a period of up to one year as a condition of probation, as well as other sanctions including community work service, court-ordered treatment, and fines. As used in this report, “total incarceration rate” refers to the percentage of offenders who received a sentence that included incarceration in a state prison or local facility (i.e., jail or workhouse).

Thirty-one percent were sentenced to imprisonment in a state facility (Table 2); the average pronounced sentence was 50 months. The average sentence has consistently been between 50 and 53 months (Table 3). Sixty-five percent were sentenced to local jail time, for an average of 202 days, as a condition of probation. The total incarceration rate (both offenders sentenced to prison and local jail) was 96 percent. The remaining four percent received other sanctions imposed by the court at sentencing. Sixty-nine percent (458 offenders) were placed on probation.

**Table 2. Total Incarceration Rate**

	# Offenders	Prison	Local Jail Time	Other Sanctions
First-Time Offenders	461	60 (13%)	378 (82%)	23 (5%)
Subsequent Offenders	199	142 (71%)	53 (27%)	4 (2%)
Total	660	202 (31%)	431 (65%)	27(4%)

**Table 3. Incarceration Rates and Average Durations by Year**

Year	Number of Offenders	Prison	Average Pronounced Sentence (months)	Local Jail Time	Average Pronounced Jail Time (days)
2002	102	7 (7%)	53	91 (89%)	237
2003	810	116 (14%)	50	672 (83%)	233
2004	860	131 (15%)	52	707 (82%)	229
2005	834	150 (18%)	52	669 (80%)	215
2006	788	155 (20%)	51	608 (77%)	212
2007	735	183 (25%)	50	525 (71%)	211
2008	779	202 (26%)	51	538 (69%)	202
2009	704	196 (28%)	51	477 (68%)	191
2010	667	167 (25%)	53	445 (67%)	199
2011	660	202 (31%)	50	431 (65%)	202
Total	6,939	1,509 (22%)	51	5,163 (74%)	213

All but two offenders received pronounced probation terms of at least 36 months. Most (70%) received a probation period equal to the statutory maximum of seven years (84 months); the average length of probation was 77 months (Table 4).

**Table 4. Length of Pronounced Probation**

<b>Pronounced Probation Duration in months</b>	<b>Number</b>	<b>Percent</b>
Less than 36 Months	2	0.4%
36 months	16	3.5%
48 months	10	2.2%
54 months	0	0.0%
60 months	93	20.3%
72 months	11	2.4%
84 months	320	69.9%
More than 84 months	6	1.3%

### *Departures from the Guidelines*

The Guidelines establish a presumptive sentence for felony offenses based on the severity of the offense and the offender's criminal history score. The presumptive sentence is based on the typical case, however, the court may depart from the Guidelines when substantial and compelling circumstances exist. A "departure" is a pronounced sentence other than that recommended in the appropriate cell of the applicable Grid. There are two types of departures – dispositional and durational – as further explained below. Since the presumptive sentence is based on "the typical case," the appropriate use of departures by the courts when substantial and compelling circumstances exist can actually enhance proportionality by varying the sanction in an atypical case.

While the court ultimately makes the sentencing decision, other criminal justice professionals and victims participate in the decision-making process. Probation officers make recommendations to the courts regarding whether a departure from the presumptive sentence is appropriate, and prosecutors and defense attorneys arrive at agreements regarding acceptable sentences for which an appeal will not be pursued. Victims are provided an opportunity to comment regarding the appropriate sentence as well. Therefore, these departure statistics should be reviewed with an understanding that, when the court pronounces a particular sentence, there is typically agreement or acceptance among the other actors that the sentence is appropriate. Only a small percent of cases (1% to 2%) result in an appeal of the sentence pronounced by the court.

### *Dispositional Departure Rates*

A "dispositional departure" occurs when the court orders a disposition other than that recommended in the Guidelines. There are two types of dispositional departures: aggravated dispositional departures and mitigated dispositional departures. An aggravated dispositional departure occurs when the Guidelines recommend a stayed sentence but the court pronounces a prison sentence. A mitigated dispositional departure occurs when the Guidelines recommend

a prison sentence but the court pronounces a stayed sentence.

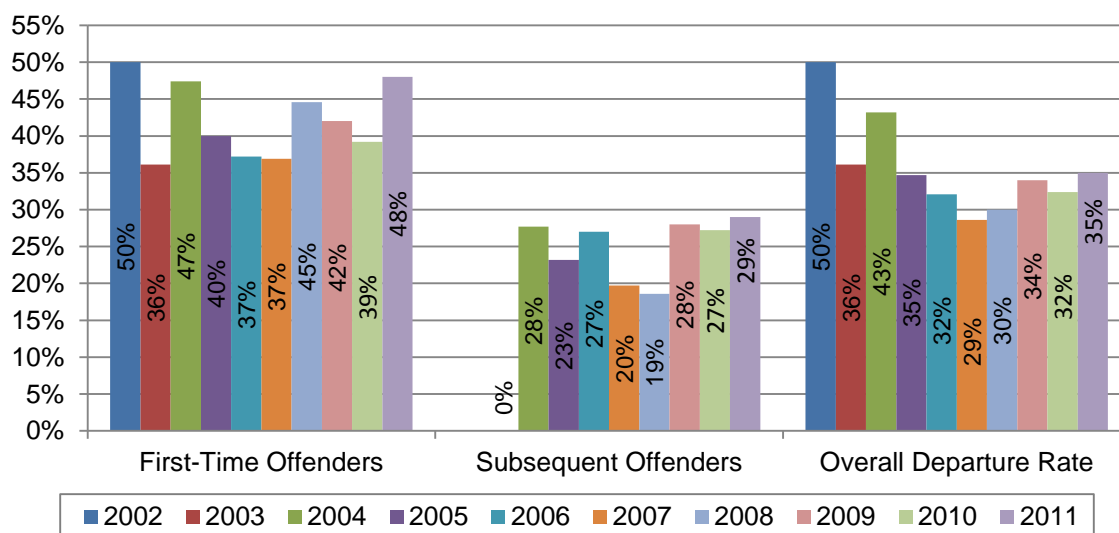
Of the 660 cases sentenced in 2011, 306 (46%) were recommended prison under the Guidelines (Table 5). Of those, 198 (65%) were given the presumptive sentence and committed to prison. The remaining 108 cases (35%) were given a mitigated dispositional departure and placed on probation. Of the 354 cases in which the Guidelines presumed a stayed sentence, four (1.1%) were given an aggravated dispositional departure and committed to prison. All of these departures were the result of a request by the offender for an executed sentence. The remaining 350 cases received the presumptive probationary or “stayed” sentence. As noted above, a stayed sentence in which the offender is placed on probation might include up to one year of incarceration in a local correctional facility as a condition of probation.

**Table 5. Dispositional Departure Rates**

Presumptive Disposition	# Offenders (Percent)	Sentence Received # Offenders (Percent)		Departure Rate
		Prison	Probation	
Prison	306 (46%)	198 (65%)	108 (35%)	Mitigated (35%)
Probation	354 (54%)	4 (1.1%)	350 (99%)	Aggravated (1.1%)
Total	660 (100%)	202 (31%)	458 (69%)	112 (17%)

Figure 5 shows that subsequent offenders are less likely to receive a mitigated dispositional departure than first-time offenders. In 2011, the mitigated dispositional departure rate for first-time felony DWI offenders was 48 percent, while the mitigated dispositional departure rate for subsequent offenders was 29 percent.

**Figure 5. Mitigated Dispositional Departure Rates: 2002-2011<sup>1</sup>**  
Presumptive Commits Only



<sup>1</sup> There were no subsequent felony DWI offenders sentenced in 2002. There were no mitigated dispositional departures among the seven subsequent felony DWI offenders sentenced in 2003.

The most frequently cited reasons for mitigated dispositional departures included amenability to treatment (72%) and amenability to probation (69%). In 40 percent of these departures, the court cited the defendant's remorse or acceptance of responsibility as a reason for departure and in 19 percent, placing the offender on long term supervision was cited as a reason for departure. In 49 percent of the mitigated dispositional departures, the court cited a plea negotiation, recommendation by the prosecutor, or failure by the prosecutor to object as a reason for departure, similar to the rate of 48 percent in 2010. The court stated that the prosecutor objected to the mitigated disposition in 21 percent of these cases.

### *Durational Departure Rates*

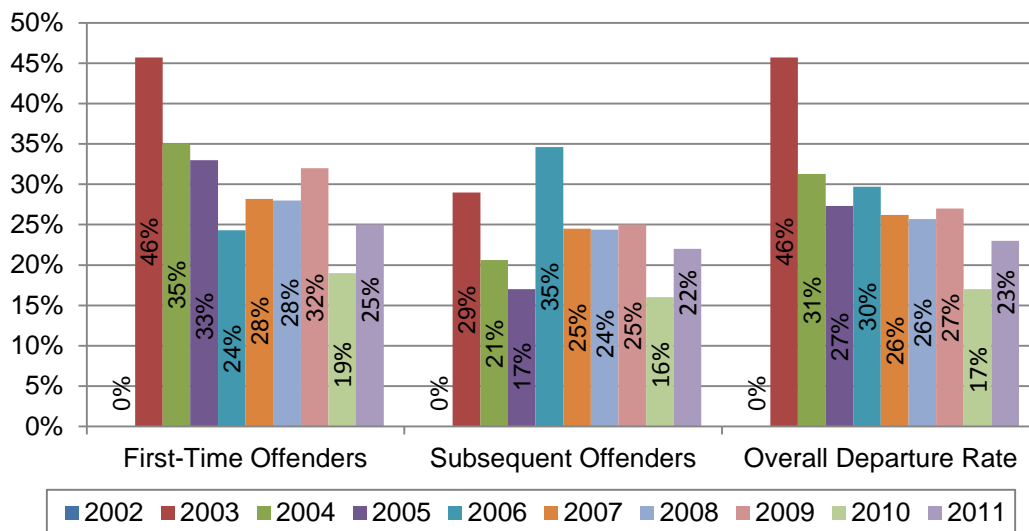
A "durational departure" occurs when the court orders a sentence with a duration other than the presumptive fixed duration or range in the appropriate cell on the applicable Grid. There are two types of durational departures: aggravated durational departures and mitigated durational departures. An aggravated durational departure occurs when the court pronounces a duration that is more than 20 percent higher than the fixed duration displayed in the appropriate cell on the applicable Grid. A mitigated durational departure occurs when the court pronounces a sentence that is more than 15 percent lower than the fixed duration displayed in the appropriate cell on the applicable Grid.

Of the 202 cases sentenced to prison in 2011, 155 (77%) received the sentence duration recommended under the Guidelines and 46 cases (23%) received a sentence that was shorter than that recommended (Table 6). This is higher than the 17 percent mitigated durational departure rate observed for felony DWI cases sentenced in 2010, which was the lowest rate ever observed (Figure 6). One offender received an aggravated durational departure to prison.

**Table 6. Durational Departure Rates: Executed Sentences**

# of Executed Sentences	No Departure	Aggravated Departure	Mitigated Departure	Total Departure Rate
202	155 (77%)	1 (0.5%)	46 (23%)	23%

**Figure 6. Mitigated Durational Departure Rates: 2002-2011<sup>1</sup>**  
Executed Prison Sentences Only



<sup>1</sup> No subsequent felony DWI offenders sentenced in 2002; no felony DWI offenders sentenced to prison in 2002 received a durational departure.

In 78 percent of the mitigated durational departures, the court cited plea agreement or recommendation or lack of objection by the prosecutor as a reason for departure. In two cases, the court stated that the prosecutor objected to the mitigated duration. Other frequently cited reasons for mitigated durations included: the offender showed remorse or accepted responsibility (70%); and amenability to treatment (13%).

## Total Departure Rates

The total dispositional departure rate for all 660 cases was 16 percent. For presumptive prison cases, the dispositional departure rate was higher at 34 percent, and for presumptive probation “stayed” cases, the rate was just under one percent. The total durational departure rate for all 660 cases was nine percent. For presumptive prison cases the rate was higher at 15 percent, and for presumptive probation “stayed” cases it was five percent (Table 7).

**Table 7. Total Departure Rates**

Presumptive Disposition	Dispositional Departure	Durational Departure	Both	Total Departure Rate
Prison: 306	104 (34%)	45 (15%)	4 (1%)	153 (50%)
Probation: 354	2 (0.6%)	17 (5%)	2 (0.6%)	21 (6%)
Total: 660	106 (16%)	62 (9%)	6 (0.9%)	174 (26%)

Any individual sentence might contain more than one kind of departure. If an offender for whom the Guidelines presume probation is sentenced to prison for a shorter duration than called for under the Guidelines, there is an aggravated dispositional departure (prison, not probation) and a mitigated durational departure (fewer months than Guidelines provide). Less than one percent of all 660 cases were given a sentence that represented both a dispositional and a durational departure (4 cases).

The overall total departure rate (combining both dispositional and durational departures) was 26 percent; 174 of the 660 cases sentenced received one or more departures. For presumptive prison cases, the total departure rate was 50 percent. For presumptive stayed cases, the total departure rate was six percent.

**Table 8. Number of Cases Sentenced by County**

County	# of Cases Sentenced	Percent
Aitkin	4	0.6%
Anoka	28	4.2%
Becker	12	1.8%
Beltrami	20	3.0%
Benton	4	0.6%
Big Stone	0	0.0%
Blue Earth	12	1.8%
Brown	1	0.2%
Carlton	9	1.4%
Carver	5	0.8%
Cass	12	1.8%
Chippewa	0	0.0%
Chisago	6	0.9%
Clay	25	3.8%
Clearwater	1	0.2%
Cook	0	0.0%
Cottonwood	1	0.2%
Crow Wing	8	1.2%
Dakota	38	5.8%
Dodge	4	0.6%
Douglas	9	1.4%
Faribault	1	0.2%
Fillmore	1	0.2%
Freeborn	1	0.2%
Goodhue	8	1.2%
Grant	0	0.0%
Hennepin	137	20.8%
Houston	3	0.5%
Hubbard	6	0.9%
Isanti	6	0.9%
Itasca	5	0.8%

County	# of Cases Sentenced	Percent
Jackson	5	0.8%
Kanabec	0	0.0%
Kandiyohi	6	0.9%
Kittson	1	0.2%
Koochiching	1	0.2%
Lac Qui Parle	2	0.2%
Lake	1	0.2%
Lake of the Woods	3	0.5%
LeSueur	4	0.6%
Lincoln	1	0.2%
Lyon	2	0.3%
McLeod	5	0.8%
Mahnomen	2	0.3%
Marshall	0	0.0%
Martin	4	0.6%
Meeker	2	0.3%
Mille Lacs	10	1.5%
Morrison	4	0.6%
Mower	3	0.5%
Murray	0	0.0%
Nicollet	1	0.2%
Nobles	8	1.2%
Norman	1	0.2%
Olmsted	25	3.8%
Otter Tail	4	0.6%
Pennington	5	0.8%
Pine	8	1.2%
Pipestone	1	0.2%
Polk	4	0.6%
Pope	0	0.0%
Ramsey	51	7.7%

County	# of Cases Sentenced	Percent
Red Lake	1	0.2%
Redwood	0	0.0%
Renville	0	0.0%
Rice	6	0.9%
Rock	0	0.0%
Roseau	1	0.2%
St Louis	25	3.8%
Scott	12	1.8%
Sherburne	12	1.8%
Sibley	1	0.2%
Stearns	17	2.6%
Steele	6	0.9%

County	# of Cases Sentenced	Percent
Stevens	1	0.2%
Todd	1	0.2%
Wabasha	6	0.9%
Wadena	1	0.2%
Waseca	2	0.3%
Washington	23	3.5%
Watsonwan	0	0.0%
Wilkin	1	0.2%
Winona	7	1.1%
Wright	5	0.8%
Yellow Medicine	1	0.2%
<b>Total</b>	<b>660</b>	<b>100.0%</b>



## How the Guidelines Work

Minnesota's Guidelines are based on a grid structure. The vertical axis of the grid represents the severity of the offense for which the offender was convicted. The horizontal axis represents a measure of the offender's criminal history. The Commission has ranked felony level offenses into eleven severity levels. Offenses included in each severity level are listed in the Offense Severity Reference Table (2012 Minn. Sentencing Guidelines § 5.A).

The criminal history index measures the offender's prior record and consists of four measures of prior criminal behavior: (1) a weighted measure of prior felony sentences; (2) a limited measure of prior misdemeanor/gross misdemeanor sentences; (3) a limited measure of the prior serious juvenile record; and (4) a "custody status" measure which indicates if the offender was confined, or was on probation or parole when the current offense was committed.

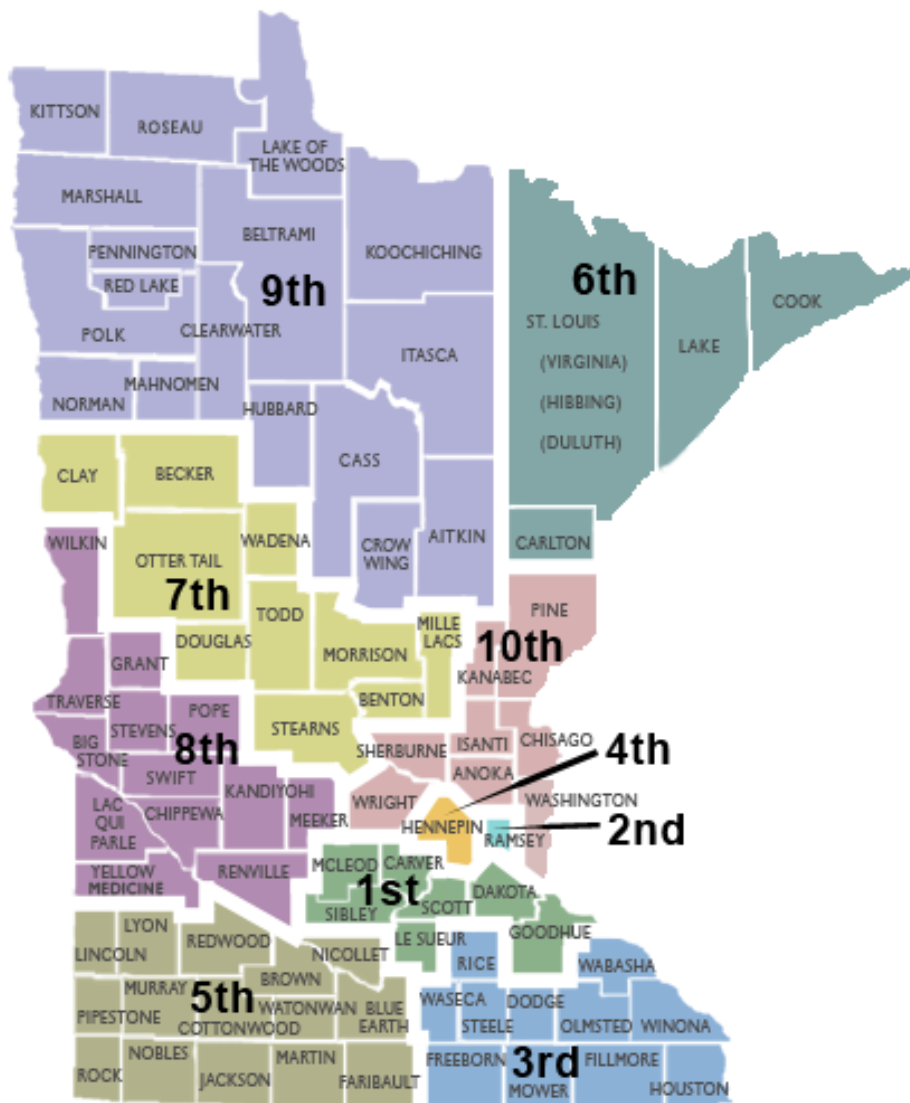
The recommended (presumptive) Guideline sentence is found in the appropriate cell of the applicable Grid in which the offender's criminal history score and severity level intersect. The Guidelines recommend imprisonment in a state prison in the non-shaded cells of the Grid.

The Guidelines generally recommend a stayed sentence for cells in the shaded areas. When a sentence is stayed, the court typically places the offender on probation and may require up to one year of conditional confinement in a local correctional facility (jail or workhouse). Other conditions such as fines, restitution, community work service, treatment, house arrest, etc. may also be applied to an offender's sentence. There are, however, a number of offenses that carry a presumptive prison sentence regardless of where the offender is on the Grid (e.g., offenses involving dangerous weapons which carry mandatory minimum prison terms, and drug and burglary offenses).

The number in the cell is the recommended length of the prison sentence in months. As explained above, sentences in shaded boxes are generally stayed probationary sentences. For cases in the non-shaded cells of the Grid, the Guidelines also provide a narrow range of months around the presumptive duration that a judge may pronounce and still be within the Guidelines.

It is not possible to fully explain all of the policies in this brief summary. Additional information on the Guidelines is available by contacting the Commission's office. The *Minnesota Sentencing Guidelines and Commentary* is available online at <http://www.msgc.state.mn.us>.

## Minnesota Judicial District Map



<u>First</u>	<u>Second</u>	<u>Third</u>	<u>Fourth</u>	<u>Fifth</u>	<u>Sixth</u>	<u>Seventh</u>	<u>Eighth</u>	<u>Ninth</u>	<u>Tenth</u>
Carver	Ramsey	Dodge	Hennepin	Blue Earth	Carlton	Becker	Big Stone	Aitkin	Anoka
Dakota		Fillmore		Brown	Cook	Benton	Chippewa	Beltrami	Chisago
Goodhue		Freeborn		Cottonwood	Lake	Clay	Grant	Cass	Isanti
LeSueur		Houston		Faribault	St. Louis	Douglas	Kandiyohi	Clearwater	Kanabec
McLeod		Mower		Jackson		Mille Lacs	LacQuiParle	Crow Wing	Pine
Scott		Olmsted		Lincoln		Morrison	Meeker	Hubbard	Sherburne
Sibley		Rice		Lyon		Otter Tail	Pope	Itasca	Washington
		Steele		Martin		Stearns	Renville	Kittson	Wright
		Wabasha		Murray		Todd	Swift	Koochiching	
		Waseca		Nicollet		Wadena	Traverse	Lake-Woods	
		Winona		Nobles			Wilkin	Mahnomen	
				Pipestone			Yellow Medicine	Marshall	
				Redwood				Norman	
				Rock				Pennington	
				Watonwan				Polk	
								Red Lake	
								Roseau	

Minnesota Judicial Branch at <http://mncourts.gov/?page=238>

## Sentencing Guidelines Grid – Effective August 1, 2012

Presumptive sentence lengths are in months. Italicized numbers within the grid denote the discretionary range within which a court may sentence without the sentence being deemed a departure. Offenders with stayed felony sentences may be subject to local confinement.

SEVERITY LEVEL OF CONVICTION OFFENSE (Example offenses listed in italics)		CRIMINAL HISTORY SCORE						
		0	1	2	3	4	5	6 or more
<i>Murder, 2nd Degree</i> (intentional murder; drive-by-shootings)	11	306 261-367	326 278-391	346 295-415	366 312-439	386 329-463	406 346-480 <sup>2</sup>	426 363-480 <sup>2</sup>
<i>Murder, 3rd Degree</i> <i>Murder, 2nd Degree</i> (unintentional murder)	10	150 128-180	165 141-198	180 153-216	195 166-234	210 179-252	225 192-270	240 204-288
<i>Assault, 1st Degree</i> <i>Controlled Substance Crime,</i> <i>1<sup>st</sup> Degree</i>	9	86 74-103	98 84-117	110 94-132	122 104-146	134 114-160	146 125-175	158 135-189
<i>Aggravated Robbery, 1st Degree</i> <i>Controlled Substance Crime,</i> <i>2<sup>nd</sup> Degree</i>	8	48 41-57	58 50-69	68 58-81	78 67-93	88 75-105	98 84-117	108 92-129
<i>Felony DWI</i>	7	36	42	48	54 46-64	60 51-72	66 57-79	72 62-84 <sup>2</sup>
<i>Controlled Substance Crime,</i> <i>3<sup>rd</sup> Degree</i>	6	21	27	33	39 34-46	45 39-54	51 44-61	57 49-68
<i>Residential Burglary</i> <i>Simple Robbery</i>	5	18	23	28	33 29-39	38 33-45	43 37-51	48 41-57
<i>Nonresidential Burglary</i>	4	12 <sup>1</sup>	15	18	21	24 21-28	27 23-32	30 26-36
<i>Theft Crimes (Over \$5,000)</i>	3	12 <sup>1</sup>	13	15	17	19 17-22	21 18-25	23 20-27
<i>Theft Crimes (\$5,000 or less)</i> <i>Check Forgery (\$251-\$2,500)</i>	2	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19	21 18-25
<i>Sale of Simulated</i> <i>Controlled Substance</i>	1	12 <sup>1</sup>	12 <sup>1</sup>	12 <sup>1</sup>	13	15	17	19 17-22



Presumptive commitment to state imprisonment. First-degree murder has a mandatory life sentence and is excluded from the Guidelines under Minn. Stat. § 609.185. See Guidelines section 2.E. Mandatory Sentences, for policies regarding those sentences controlled by law.



Presumptive stayed sentence; at the discretion of the court, up to one year of confinement and other non-jail sanctions can be imposed as conditions of probation. However, certain offenses in the shaded area of the Grid always carry a presumptive commitment to state prison. Guidelines sections 2.C. Presumptive Sentence and 2.E. Mandatory Sentences.

12<sup>1</sup>=One year and one day

<sup>2</sup> Minn. Stat. § 244.09 requires that the Guidelines provide a range for sentences that are presumptive commitment to state imprisonment of 15% lower and 20% higher than the fixed duration displayed, provided that the minimum sentence is not less than one year and one day and the maximum sentence is not more than the statutory maximum. Guidelines section 2.C.1-2. Presumptive Sentence.